

ORIGINAL



QUECHAN INDIAN TRIBE
Ft. Yuma Indian Reservation

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OFFICE OF THE
SECRETARY
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November 20, 2006

Federal Energy Regulatory Commission
Ms. Magalie R. Salas, Secretary
888 First St. NE, Room 1A
Washington, DC 20426

Dear Ms. Salas,

Thank you for notifying us of the proposed North Baja Pipeline, docket nos. CP06-61-000 and CP01-23-000.

We have reviewed the DEIS/EIR sent to us and have determined that there will be impacts on cultural resources affiliated with the Quechan Indian Tribe. The following statements from the DEIS/EIR were of great concern to both my office and the Quechan Cultural Committee:

NA1-1

1. Statement from DEIS/EIR(pg ES-16): "North Baja has no plans to maintain a permanent road on the right-of-way for operation and maintenance of the pipeline facilities. However, North Baja would maintain access to all portions of the permanent right-of-way by four-wheel drive vehicles in order to conduct emergency and periodic maintenance"

- a. Comment: This is of concern because the 4WD vehicles may not be used on established routes and may impact even more resources in the area. The Tribe has worked with BLM in other projects where contractors wanted to make their own paths through the desert in order to access their project areas and they have been required to use only paved roads. If unable to adhere to this, extensive surveys need to be done for access roads and those should be marked so that workers do not go outside of them.

NA1-2

2. Statement from DEIS/EIR(pg ES-18-19): "North Baja provided its Unanticipated Discovery Plan..... The plan includes contact procedures for the FERC, the SHPOs, the BLM, the BOR, and Native American tribes, as appropriate. The plan provides for the protection in place of any unanticipated discoveries until appropriate evaluation and consultation have occurred. In the event that the discovery is determined to be of NRHP significance, a treatment plan would be developed...."

- a. Comment: The Quechan Tribe would like to ensure that we are contacted if any discovery is made. Often the tribe is consulted only if a burial is discovered. However, given the location of the project area, and the

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NA1-1

North Baja personnel would gain access to the pipeline only along the permanent right-of-way via public roads. No new permanent access roads would be constructed or used perpendicular to the permanent right-of-way.

NA1-2

North Baja's Unanticipated Discovery Plan includes provisions to contact Native American tribes in the event that prehistoric cultural materials or human remains are encountered during construction.

- NA1-2 (cont'd) significance of the area to the Tribe, we should be contacted in addition to SHPO not after someone makes a determination of eligibility. The Tribe should have a chance to talk about the cultural resources prior to the determination being made and once it is made, we should have a say in the treatment plan.
- NA1-3 3. Statement from DEIS/EIR(pg ES-19): "Once cultural resources surveys and evaluations are complete, the FERC, in consultation with the SHPOs, the BLM, the BOR and the FWS, Cibola NER, as applicable, would make determinations of eligibility and Project effects.... Once a treatment plan is approved, a MOA would be executed by the appropriate parties."
- a. Comment: Again, where is the consultation with the Tribe? The area in which the project is taking place is traditional territory to the Tribe and contains two Traditional Cultural Places that are linked by trails and other cultural resources. It is even acknowledged in the Cultural Resources Overview and Survey Report that "the project is for the most part in Quechan territory." The Tribe should be involved in every step of this process including the drafting of the treatment plan and being a party to the MOA.
- NA1-4 4. Statement from DEIS/EIR(pg 1-22): "The Yuma District is currently in the process of revising its plan and its considering a proposal that would reroute the designated utility corridor to follow SR 78 through the Milpitas Wash SMA."
- a. Comment: There are several sites affiliated with the Tribe in this area and we have recently become a cooperating partner with the BLM-Yuma Field Office in hopes of protecting those resources. Has the proposed reroute been surveyed? Where are those results?
- NA1-5 5. Statement from DEIS/EIR(pg 2-23): "Blasting to excavate the trench for the B-Line is not anticipated to widespread...."
- a. Comment: How would this affect cultural resources in the area? How large is the blast? What is the range of the blast?
- NA1-6 6. Statement from DEIS/EIR(pg 4-193): "Mitigation may include, but not be limited to, one or more of the following measures.... (2) data recovery, which may include the systematic professional excavation of an archaeological site..."
- a. Comment: It is unclear where the artifacts already collected are being stored and where the artifacts that may be collected during the course of this project will be stored. The Tribe would like to make arrangements to have all cultural resources within the Tribe's traditional territory returned to their museum once it is up to Federal standards. Is it possible to have the artifacts temporarily stored, not accessioned, in a location where the Tribe would be able to retrieve them in the immediate future?

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- NA1-3 The Executive Summary and Section 4.11.6 have been revised to include Native American tribes, as applicable, in the list of consulting parties. North Baja's consultation efforts with Native American tribes are discussed in Section 4.11.5, which has been revised to include consultations and meetings with Native American tribes that occurred after the issuance of the draft EIS/EIR. As discussed in Section 4.11.5 and shown in Table 4.11.5-1, North Baja has consulted with the Quechan Indian Tribe on numerous occasions.
- NA1-4 The revision to the Yuma Field Office Draft Resource Management Plan is a separate action from the proposed North Baja Pipeline Expansion Project. On December 15, 2006, the EPA published a *Notice of Availability of Yuma Field Office Draft Resource Management Plan and Draft Environmental Impact Statement* (DRMP/Draft EIS) in the Federal Register. The DRMP/Draft EIS is available for viewing on the Internet at <http://www.blm.gov/az/LUP/planning.htm> or at the Yuma Field Office. The DRMP/Draft EIS includes strategies for protecting and preserving the cultural values that balance multiple uses of the BLM-managed lands throughout the Yuma Field Office Planning area and was prepared in collaboration with tribal, State, and local governments. As stated in the DRMP/Draft EIS, the management of cultural resources on BLM land must be in compliance with several Federal laws, including the Antiquities Act of 1906; the National Historic Preservation Act; NEPA; Executive Order 11593 "Protection and Enhancement of the Cultural Environment;" the Federal Land Policy Management Act of 1976; the American Indian Religious Freedom Act of 1978; the Archaeological Resource Protection Act of 1979; the Native American Graves Protection and Repatriation Act of 1990; Executive Order 13007 "Indian Sacred Sites;" Executive Order 13175 "Consultation and Coordination with Indian Tribal Governments;" and Executive Order 13287 "Preserve America." In addition, the Yuma Field Office manages its cultural resources according to the BLM Manual 8100 Series and Arizona BLM Handbooks H-8110 "Guidelines for Identifying Cultural Resources" and H-8120 "Guidelines for Protecting Cultural Resources." After the comment period on the DRMP/Draft EIS closes, and all public comments received during the comment period are reviewed and considered, a Proposed Resource Management Plan and Final EIS will be prepared by the BLM. The Quechan Indian Tribe is encouraged to continue to collaborate with the BLM and provide written comments on the DRMP/Draft EIS.
- NA1-5 As discussed in Section 4.1.2, blasting is only anticipated to be necessary along the B-Line near milepost (MP) 29.5 because that was the only area requiring blasting during construction of the A-Line. The area surrounding MP 29.5 is uninhabited desert, with no nearby residences or other

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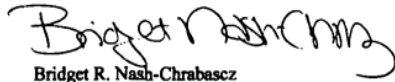
- NA1-5
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development. However, cultural resources features are nearby. Section 4.1.2 has been revised to state that the range of the blast would be limited to the trenchline. Blasting mats would be employed to keep fly-rock from leaving the construction work area. All blasting activities would be conducted in strict compliance with North Baja's Blasting Specifications (see Appendix I). Blasting procedures would be in accordance with Federal, State, and local regulations regarding use, storage, and transport of explosives; safety; and environmental protection.
- NA1-6

Under California law, property owners have ownership rights over artifacts that are discovered on private land. North Baja would consult with private landowners to determine whether the landowner wishes to retain ownership of any recovered artifacts or waive ownership in order to curate materials at an appropriate facility. On Federal land, the responsible land management agency would determine the appropriate curatorial facility.

If you need any further information or have any questions, please contact me at (760) 572-2423.

Sincerely,



Bridget R. Nash-Chrabascz
Historic Preservation Officer

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